Beneficial Innovations, Inc. v. Blockdot, Inc. et al Doc. 87

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC., Plaintiff, vs. BLOCKDOT, INC., a Texas Corporation; CAREERBUILDER, LLC., a Delaware corporation; DIGG'S NETWORKS, INC., a Delaware corporation; DIGG, INC., a Delaware corporation; EBAUM'S WORLD, INC., a New York corporation; DIGG'S NETWORKS, INC., a Tennessee corporation; DIGG'S COMPANY, a New York corporation; WASHINGTONPOST.NEWSWEEK INTERACTIVE COMPANY, LLC; a Delaware Corporation; THE WEATHER CHANNEL INTERACTIVE, INC., a Georgia corporation, Defendants.	CASE NO. 2:07-CV-263 (TJW/CE) **Jury Trial Demanded**

PLAINTIFF AND COUNTERDEFENDANT BENEFICIAL INNOVATION, INC.'S REPLY TO COUNTERCLAIMS OF DIGG, INC.

Plaintiff and Counterdefendant Beneficial Innovations, Inc. ("Beneficial Innovations") hereby answers the counterclaims of Defendant and Counterclaimant Digg, Inc. ("Digg"). All of the allegations of Digg's Counterclaims not specifically admitted are hereby denied.

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Answer to Counterclaims

The Parties

1. Plaintiff and Counterdefendant Beneficial Innovations admits the allegation contained in paragraph 1 of Digg's Counterclaims.

2. Plaintiff and Counterdefendant Beneficial Innovations admits the allegation contained in paragraph 2 of Digg's Counterclaims.

Nature of the Counterclaims

3. Plaintiff and Counterdefendant Beneficial Innovations admits that Digg purports to request a declaratory judgment that it does not infringe the claims of the '702 and '366 patents and that those patents are invalid.

4. Plaintiff and Counterdefendant Beneficial Innovations admits that it is the owner of all rights, title, and interest in the '702 and '366 patents and that Digg infringes these patents. Beneficial Innovations denies all of the other allegations contained in paragraph 4 of Digg's Counterclaims.

5. Plaintiff and Counterdefendant Beneficial Innovations admits that an actual and justiciable controversy exists between Beneficial Innovations and Digg.

Jurisdiction and Venue

6. Plaintiff and Counterdefendant Beneficial Innovations admits the allegations of subject matter jurisdiction in paragraph 6 of Digg's Counterclaims.

7. Plaintiff and Counterdefendant Beneficial Innovations admits the allegations contained in paragraph 7 of Digg's Counterclaims.

First Counterclaim
Declaratory Judgment of Non-Infringement

8. Paragraph 8 of Digg's Counterclaims re-alleges and incorporates by reference the allegations of paragraphs 1-7 of Digg's Counterclaims. Beneficial Innovations incorporates by reference its response to the allegations of paragraphs 1-7 of Digg's Counterclaims. Except as expressly admitted, Beneficial Innovations denies each of the

allegations of paragraph 8.

9. Plaintiff and Counterdefendant Beneficial Innovations denies the allegations contained in paragraph 9 of Digg's Counterclaims.

10. Plaintiff and Counterdefendant Beneficial Innovations admits that an actual and justiciable controversy exists between Beneficial Innovations and Digg, and denies all other allegations contained in paragraph 10 of Digg's Counterclaims.

Second Counterclaim
Declaratory Judgment of Invalidity

11. Paragraph 11 of Digg's Counterclaims re-alleges and incorporates by reference the allegations of paragraphs 1-10 of Digg's Counterclaims. Beneficial Innovations incorporates by reference its response to the allegations of paragraphs 1-10 of Digg's Counterclaims. Except as expressly admitted, Beneficial Innovations denies each of the allegations of paragraph 11.

12. Plaintiff and Counterdefendant Beneficial Innovations denies the allegations contained in paragraph 12 of Digg's Counterclaims.

13. Plaintiff and Counterdefendant Beneficial Innovations admits that an actual and justiciable controversy exists between Beneficial Innovations and Digg, and denies all other allegations contained in paragraph 13 of Digg's Counterclaims.

Third Counterclaim
Declaratory Judgment of Non-Infringement

14. Paragraph 4 of Digg's Counterclaims re-alleges and incorporates by reference the allegations of paragraphs 1-13 of Digg's Counterclaims. Beneficial Innovations incorporates by reference its response to the allegations of paragraphs 1-13 of Digg's Counterclaims. Except as expressly admitted, Beneficial Innovations denies each of the allegations of paragraph 14.

15. Plaintiff and Counterdefendant Beneficial Innovations denies the allegations contained in paragraph 15 of Digg's Counterclaims.

16. Plaintiff and Counterdefendant Beneficial Innovations admits that an actual and justiciable controversy exists between Beneficial Innovations and Digg, and denies all other allegations contained in paragraph 16 of Digg's Counterclaims.

Fourth Counterclaim
Declaratory Judgment of Invalidity

17. Paragraph 17 of Digg's Counterclaims re-alleges and incorporates by reference the allegations of paragraphs 1-16 of Digg's Counterclaims. Beneficial Innovations incorporates by reference its response to the allegations of paragraphs 1-16 of Digg's Counterclaims. Except as expressly admitted, Beneficial Innovations denies each of the allegations of paragraph 17.

18. Plaintiff and Counterdefendant Beneficial Innovations denies the allegations contained in paragraph 18 of Digg's Counterclaims.

19. Plaintiff and Counterdefendant Beneficial Innovations admits that an actual and justiciable controversy exists between Beneficial Innovations and Digg, and denies all other allegations contained in paragraph 19 of Digg's Counterclaims.

Prayer for Relief

Plaintiff and Counterdefendant Beneficial Innovations denies that Digg's is entitled to the relief it seeks or any relief for the allegations made in its Answer and Counterclaims. Plaintiff and Counterdefendant Beneficial Innovations requests that judgment be entered in its favor on all issues and it be awarded the appropriate damages, exceptional damages, costs, and attorneys' fees.

Demand for Jury Trial

20. Plaintiff and Counterdefendant Beneficial Innovations demands trial by jury of all issues.

Dated: October 15, 2007

Respectfully submitted,

By: /s/ N. Claire Abernathy

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ATTORNEYS FOR PLAINTIFF
BENEFICIAL INNOVATIONS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 15th day of October, 2007, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ N. Claire Abernathy